IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6744 OF 2007

Balu Vithoba Kumbhar & Anr..... ....Petitioners
V/s
Sou. Balabai Ganpati Kumbhar & Ors... ....Respondents.

Mr.T.S.Ingale, Adv. For the petitioners.

CORAM: A.P.DESHPANDE, J.
12/9/07

PC:

The petitioner challenges the order dated 8.6.07 whereby the Executing Court holds that law of limitation has no application for executing a decree pertaining to landed properties assessed to land revenue by placing reliance on a judgment in the case of ***Annasaheb Rajaram Nagane & Anr.*** V/s ***Rajaram Maruti Nagane & Ors.***, AIR 2001, Bom. 303. The other objection was in regard to failure to bring legal representatives on record. The application filed by the petitioner was allowed and the heirs of the deceased Ganpati are directed to be brought on record. Perused the orders. Same does not call for interference moreso in exercise of writ jurisdiction.

2. A decree passed way back on 7.1.69 is being executed and the said execution has been objected on various grounds. Learned counsel for the petitioner submits that he has one more objection to the execution of

decree and the same is to the effect that the decree was already satisfied and to that effect statement is contained in para 4 of the regular darkhast wherein it is stated that the opponents had placed the decree holder in possession of the property at A, B and C to the extent of their share. Hence it is contended that the present execution thus would not be maintainable. Learned counsel submits that the said issue has not been decided by the Executing Court as yet. If this be the position, I permit the petitioner to press for adjudication of the said objection before the Executing Court. With these observations writ petition is summarily dismissed.

12.9.07